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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,733	11/02/2001	Sunanda R. Kulkarni	MCP-291	3078

27777 7590 01/27/2003

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EXAMINER

NAFF, DAVID M

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 01/27/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/001733

Applicant(s)

Kutarni et al

Examiner

Nafit

Group Art Unit

1451

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 11/2/01
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 7-49 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 7-49 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

The preliminary amendment of 11/2/01 amended the abstract and specification, canceled claims 1-17, and added new claims 18-60.

The application as filed contained claims 1-6 instead of 1-17. Therefore, claims 1-6 have been canceled and claims 18-60 have been
5 renumbered as claims 7-49.

Claims in the application are 7-49.

Restriction to one of the following inventions is required under 35
U.S.C. 121:

- I. Claims 7-36, drawn to a tablet and composition containing
10 lactase, classified in class 435, subclass 188.
- II. Claims 37-49, drawn to processes of making a tablet containing lactase by forming a preblend of lactase and microcrystalline cellulose and combining the preblend with other components, classified in class 435, subclass 200.

15 The inventions are distinct, each from the other because:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be
20 made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product (tablet and composition) can be made by a materially different process. The tablet and composition can be made by combining components without forming a preblend of lactase and microcrystalline cellulose as required in the process.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5 Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance
10 with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications
15 from the examiner should be directed to David M. Naff whose telephone number is (703) 308-0520. The examiner can normally be reached on Monday-Thursday and every other Friday from about 8:30 AM to about 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, a
20 message can be left on voice mail.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn, can be reached at telephone number (703) 308-4743.

The fax phone number is (703) 872-9306 before final rejection or
25 (703) 872-9307 after final rejection.

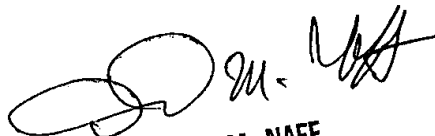
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Art Unit: 1651

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

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DMN
1/24/03


DAVID M. NAFF
PRIMARY EXAMINER
ART UNIT 1651